

Article 2.

Rural Health Care Stabilization Program.

§ 131A-30. Definitions.

The following definitions apply in this Article:

- (1) Commission. – The Local Government Commission established pursuant to G.S. 159-3.
- (2) Eligible hospital. – A health care facility located in a development tier one or development tier two area, as defined in G.S. 143B-437.08, that is unable to sustain operations for more than three years from the date of application for a loan under the Program.
- (3) Fund. – The Rural Health Care Stabilization Fund established in accordance with this Article.
- (4) Health care facility. – Any one or more buildings, structures, additions, extensions, improvements or other facilities, whether or not located on the same site or sites, machinery, equipment, furnishings, or other real or personal property suitable for health care or medical care.
- (5) Loan. – A sum of money loaned to an applicant with an obligation on the part of the applicant to repay the sum, plus interest, in accordance with a loan agreement.
- (6) Plan. – A hospital stabilization plan developed in accordance with G.S. 131A-33.
- (7) Program. – The Rural Health Care Stabilization Program established pursuant to this Article.
- (8) Public agency. – Any county, city, town, hospital district, or other political subdivision of the State existing or hereafter created pursuant to the laws of the State authorized to acquire, by lease or otherwise, operate, or maintain health care facilities.
- (9) UNC Health Care. – The University of North Carolina Health Care System established pursuant to G.S. 116-37. (2019-240, s. 27.2.)

§ 131A-31. The Rural Health Care Stabilization Program.

(a) Program Established; Purpose. – There is established the Rural Health Care Stabilization Program to provide loans for the support of eligible hospitals located in rural areas of the State that are in financial crisis due to operation of oversized and outdated facilities and recent changes to the viability of health care delivery in their communities, including the demand for certain patient services and the composition of payer mixes and patient populations. Within the funds available in the Rural Health Care Stabilization Fund, the Program shall provide for loans at below-market interest rates with structured repayment terms in order for these financially distressed eligible hospitals to transition to sustainable, efficient, and more proportionately sized health care service models in their communities. In meeting this goal, loan funds may be used to finance construction of new health care facilities or to provide for operational costs during this transition period, or both, including while the construction of new health care facilities is undertaken.

(b) Administration. – UNC Health Care shall administer the Program and has the following duties and responsibilities:

- (1) Establishing an application period and a process for submitting an application for a loan under this Program.
 - (2) Assessing Plans submitted by an applicant for a loan under the Program.
 - (3) Evaluating an applicant's ability to repay the loan under the proposed Plan.
 - (4) Submitting recommendations to the Commission on whether an applicant should receive a loan under the Program.
 - (5) Negotiating the terms of a proposed loan agreement.
 - (6) Determining the security interests necessary to enforce repayment of the loan.
 - (7) Implementing approved loan agreements, including monitoring repayment and collection.
 - (8) Any other duties and responsibilities necessary to the implementation of the Program and enforcement of the loan agreements under the Program.
- (c) **Exclusion.** – UNC Health Care cannot apply for a loan under this Program and cannot be a partner in a partnership that applies for a loan under this Program. The Commission cannot approve an application for a loan if the issuance of the loan would result in a material, direct financial benefit to UNC Health Care at the time the application and Plan are submitted to the Commission for its approval.
- (d) **Rules.** – UNC Health Care is authorized to adopt any rules necessary for implementation of the Program. (2019-240, s. 27.2.)

§ 131A-32. The Rural Health Care Stabilization Fund.

The Rural Health Care Stabilization Fund is created as a nonreverting special fund in the Office of State Budget and Management. The Fund shall operate as a revolving fund consisting of funds appropriated to, or otherwise received by, the Rural Health Care Stabilization Program and all funds received as repayment of the principal of or interest on a loan made from the Fund. The State Treasurer is the custodian of the Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Moneys in the Fund shall only be used for loans made pursuant to this Article. (2019-240, s. 27.2.)

§ 131A-33. Application for loan evaluation.

(a) **Application and Plan.** – A public agency, an owner of a health care facility, or a partnership including one or more of those entities may apply for a loan under the Program to benefit an eligible hospital. To apply for a loan, an applicant must develop a hospital stabilization plan and submit the Plan with its application to UNC Health Care during the application period. The Plan shall include, at a minimum, any proposed changes in governance or ownership for the eligible hospital and the eligible hospital's financial projections, including a plan for repayment by the applicant of the requested loan and other sources of funds projected for support of the eligible hospital, such as local or federal funds. An applicant shall submit to UNC Health Care any additional information requested by UNC Health Care to enable it to determine whether to recommend the application to the Local Government Commission for approval.

(b) **Evaluation.** – UNC Health Care shall evaluate each Plan submitted to determine whether the applicant's Plan demonstrates a financially sustainable health care service model for the community in which the eligible hospital is located. UNC Health Care may also assist an applicant with revisions to its Plan, including negotiating loan terms. Upon conclusion of its review of an application, UNC Health Care shall notify the applicant and the Commission of its

recommendation on whether to approve or disapprove a loan application. If more than one applicant applies during an application period, UNC Health Care may assign a priority order for approval of applications when submitting its recommendations to the Commission and reasons for the assigned order of priority.

(c) Disapproval of Application. – If UNC Health Care disapproves a loan application, the applicant may engage a disinterested and qualified third party approved by the Commission to evaluate the applicant's Plan to determine if the applicant demonstrates a financially sustainable health care service model for the community in which the eligible hospital is located. The applicant may seek Commission approval of the loan based on the written evaluation of its Plan by the third party. (2019-240, s. 27.2.)

§ 131A-34. Commission approval for loan.

(a) Approval Required. – UNC Health Care shall not award a loan under the Program unless the Commission approves it. If the Commission enters an order denying the loan, the proceedings under this Article shall be at an end.

(b) Conflict of Interest. – UNC Health Care must disclose to the Commission any potential conflict of interest in its review of an application and Plan. The Commission cannot approve a loan if the issuance of the loan would result in a material, direct financial benefit to UNC Health Care at the time the application and Plan are submitted to the Commission for its approval.

(c) Considerations. – The Commission shall review UNC Health Care's recommendations, an applicant's Plan, and any other information it may believe to have a bearing on whether the loan should be approved. If UNC Health Care has recommended disapproval of a loan, and the applicant has an evaluation prepared by a disinterested and qualified third party approved by the Commission, the Commission may consider the third party's evaluation of the applicant and the applicant's Plan. The Commission may require the applicant and eligible hospital, if different, to provide any of the following information for its consideration:

- (1) Current and historical financial information.
- (2) Whether the undertaking is necessary or expedient.
- (3) Its debt management procedures and policies.
- (4) Whether it is in default in any of its debt service obligations.
- (5) Any other information the Commission may believe to have a bearing on whether the loan should be approved.

(d) Loan Approval. – The Commission may approve the application if, upon the information and evidence it receives, it finds and determines:

- (1) That the loan is necessary or expedient.
- (2) That the amount proposed is adequate and not excessive for the proposed purpose of the loan.
- (3) That the Plan demonstrates a financially sustainable health care service model for the community in which the eligible hospital is located.
- (4) That the applicant's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will be repaid. (2019-240, s. 27.2.)

§ 131A-35. Award of loans; terms.

(a) Award. – Upon approval of the loan by the Commission, UNC Health Care shall execute the terms of the loan agreement. In adopting terms of the loan agreement, UNC Health Care may require changes to the governance structure of the eligible hospital.

(b) Interest Rate and Maturity. – The interest rate payable on and the maximum maturity of a loan are subject to the following limitations:

(1) Interest rate. – The interest rate for a loan may not exceed the interest rate obtained by the State on its most recent general obligation bond offering.

(2) Maturity. – The maturity for a loan may not exceed 20 years.

(c) Debt Instrument. – UNC Health Care shall execute a debt instrument with the recipient of the loan to evidence the obligation to repay the principal of and interest on the loan awarded under this Article to the State. (2019-240, s. 27.2.)

§ 131A-36. Annual reports on the Rural Health Care Stabilization Fund.

(a) Requirement. – UNC Health Care shall publish a report each year on the Rural Health Care Stabilization Fund. The report shall be published by November 1 of each year and cover the preceding fiscal year. UNC Health Care shall make the report available to the public and shall give a copy of the report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division.

(b) Content. – The report required by this section shall contain the following information concerning the Fund:

(1) The beginning and ending balance of the Fund for the fiscal year.

(2) The amount of revenue credited to the Fund during the fiscal year, by source.

(3) The total amount of loans awarded from the Fund.

(4) For each loan awarded, the recipient of the award, the amount of the award, the amount of the award that was disbursed, and the amount of the award remaining to be disbursed in a subsequent fiscal year, if applicable. (2019-240, s. 27.2.)